IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 47 of 1988

in

SPECIAL CIVIL APPLICATIONNo 4633 of 1987

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI
and
HON'BLE MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

V G THAKRAR,ADVOCATE.

Versus

STATE OF GUJARAT-FINANCE DEPTT

Appearance:

1. LETTERS PATENT APPEAL No. 47 of 1988
MR TS NANAVATI for the Appellant
MR AJ DESAI, AGP for Respondent No. 1-2
Respondent No. 3 SERVED BY RPAD

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI
and

HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 12/11/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE R.K.ABICHANDANI)

#. The appellant had made allegations against the integrity of the Sales Tax Officers of Jamnagar. In his various applications including letter dated 5.11.89, addressed to then HOn'ble the Chief Minister, main thrust of the allegations was that a modus operandi was adopted in connivance with the Sales Tax Officers, leading to evasion of huge amounts of sales tax dues. Such modus operandi is narrated in para-4 of the petition.

#. It appears from the record that in response to the appellant's various communications to the concerned authority to inquire into the large-scale evasion of sales tax and the involvement of the officers, one Police Inspector, A.C.B., Jamnagar made some inquiry and submitted a report dated 22.11.1987 to the Director General of Police, a copy of which is annexed with the affidavit of the Vigilance Officer of the Commissioner of Sales Tax filed in this appeal. That report makes a dismal reading and shows a lackadaisical approach of the authorities in appreciating the nature of the serious allegations made by the appellant. There was no question of holding any trap involved and the question was whether there was a large-scale evasion of the Sales Tax in which Sales Tax Officers were involved, by following the modus operandi indicated by the appellant in his petition. Therefore, it was necessary to inquire into the records of the Sales Tax Department in respect of various firms to find out whether any such modus operandi was adopted.

#. It appears that during the pendency of this appeal, the appellant has furnished a list of firms who have, according to the appellant, indulged in a large-scale evasion of sales tax. The Vigilance Officer in his affidavit, referring to the report dated 27.9.'90 of the Sales Tax Commissioner to the State Government (at Annexure:B to that affidavit), stated that there was no substance in the allegations and they were vague and not supported by any evidence. In fact, in one of the items of that report, it was mentioned that there was substance in the allegations made in connection with the firm of Hasmukhrai Chhaganlal. At the end of the report, the Commissioner had moved the State Government to take a decision in the matter. No such decision appears to have been taken and the stand of the State Government is not known till now.

#. Though it is true that wholesale allegations against the department can never be countenanced, it appears that during the pendency of this Letters Patent Appeal, the appellant has brought on record certain details which ought to be examined by the State Government, more particularly because, at the earlier stage neither the State Government nor the Sales Tax Department seem to have examined the allegations about the modus operandi being adopted for the large-scale evasion of sales tax. In this background, the learned counsel for the appellant states that the appellant would make a fresh application to the State Government within two weeks from today, pointing out the particulars in support of the allegations regarding the modus operandi adopted for the larlge-scale evasion of Sales Tax with the involvement of the Sales Tax Officers. The learned Assistant Government Pleader appearing for the State of Gujarat states that if such application is made, an officer, not lower in rank than an Additional Chief Secretary of the State Government, shall consider the allegations and after hearing the appellant in support of his allegations and making such inquiry as he may deem fit and proper, take appropriate action if any default is detected, within eight weeks from the date of the receipt of such application. Both the sides are directed to act as per the above arrangement. Subject to this direction, the appeal stands dismissed with no order as to costs.

[R.K. ABICHANDANI, J.]

[D.A. MEHTA, J.]
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